

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

PATRICIA FAENGER, ADMINISTRATOR, and MISSOURI VETERANS HOME AT
ST. JAMES, MISSOURI,

Appellants,

v.

THREASA BACH,

Respondent.

DOCKET NUMBER WD77029

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: September 16, 2014

APPEAL FROM

The Circuit Court of Cole County, Missouri
The Honorable Daniel R. Green, Judge

JUDGES

Division One: Pfeiffer, P.J., and Hardwick and Mitchell, JJ.

CONCURRING.

ATTORNEYS

Kevin Hall
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Attorney for Appellants,

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Attorney for Respondent.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

PATRICIA FAENGER, ADMINISTRATOR,)
and MISSOURI VETERANS HOME AT)
ST. JAMES, MISSOURI,)

Appellants,)

v.)

THREASA BACH,)

Respondent.)

OPINION FILED:

September 16, 2014

WD77029

Cole County

Before Division One Judges:

Mark D. Pfeiffer, Presiding Judge, and Lisa White
Hardwick and Karen King Mitchell, Judges

The Missouri Veterans Home and Patricia Faenger (administrator for the Missouri Veterans Home—St. James) (collectively “MVH”) appeal the circuit court’s affirmance of the Administrative Hearing Commission’s (AHC) order that Threasa Bach (a State of Missouri merit-system employee) be reinstated to her position as Nursing Assistant I. MVH argues that the AHC’s order constituted an abuse of discretion and a misapplication of the law insofar as the order determined—contrary to Faenger’s judgment—that Bach’s dismissal was not for the good of the service.

AFFIRMED.

Division One holds:

1. Before an appointing authority may dismiss a merit-system employee, the appointing authority must find both: (1) cause, and (2) that dismissal is in the interests of efficient administration and for the good of the service.
2. In examining whether an employee’s dismissal was “in the interests of efficient administration” and “for the good of the service,” the appointing authority must first

consider whether the employee's conduct affected either her ability to perform her job or the agency's ability to carry out its obligations.

3. The appointing authority must then consider whether the conduct's effect on either the employee's ability to perform her job or the facility's ability to carry out its obligations was sufficiently serious so as to warrant dismissal, rather than a lesser form of discipline.
4. Here, though MVH presented evidence of the heightened need for consistent employee attendance, it failed to meet its burden of demonstrating that dismissal, rather than some lesser punishment, was required to combat employee attendance issues.

Opinion by: Karen King Mitchell, Judge

September 16, 2014

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